



PTO/SB/21 (09-04)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

**89**

Application Number

**10/789,146**

Filing Date

**02-28-2004**

First Named Inventor

**Rubach, James E.**

Art Unit

**2877**

Examiner Name

**NGUYEN, SANG H**

Attorney Docket Number

**ENCLOSURES (Check all that apply)**☐

Fee Transmittal Form

☐

Fee Attached

☒Amendment/Reply **[2 pages]**☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐Reply to Missing Parts/  
Incomplete Application☐Reply to Missing Parts  
under 37 CFR 1.52 or 1.53☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐Petition to Convert to a  
Provisional Application☒Power of Attorney, Revocation  
Change of Correspondence Address☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) \_\_\_\_\_

☐

Landscape Table on CD

☐

After Allowance Communication to TC

☐Appeal Communication to Board  
of Appeals and Interferences☐Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)☐

Proprietary Information

☐

Status Letter

☒Other Enclosure(s) (please identify  
below):**copy of the office action  
[5 pages]****(1) SB/97 [1 page]**

Remarks

*Document faxed  
and placed in US First Class  
Mail*

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Signature

Printed name

**Richard S Missimer**

Date

**Oct 18, 2005**

Reg. No.

**45,537****CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

**Richard S. Missimer**

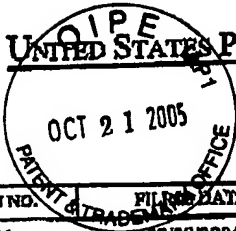
Date

**10/18/05**

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**ART UNIT # 2877**  
**SANG H NGUYEN**


**UNITED STATES PATENT AND TRADEMARK OFFICE**


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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,146	02/28/2004	James E. Rubach		9245

7590 09/19/2005  
 James Rubach  
 4736 Fairway Drive  
 Waterford, WI 53185

EXAMINER
NGUYEN, SANG H

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**COPY**

Post-It® Fax Note	7671	Date	10/5	# of pages	18
To	R. MISSIMER	From	J. RUBACH		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

## Office Action Summary



Application No.

10/789,148

Applicant(s)

RUBACH, JAMES E.

Examiner

B Sang Nguyen

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 day MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

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***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6 and 18, drawn to a jump takeoff position indicator system and method comprising an infrared light beam emitting device, an infrared light beam detecting device, a collimating means, a synchronization means, a display means, a memory for storing the status of said plurality of infrared light beams at the moment of takeoff, and a recall switch for recalling and displaying said status on said display means, classified in class 356, subclass 614.
- II. Claims 7-17, drawn to a jump takeoff position indicator system having an infrared light beam emitting device is an electronic assembly containing a plurality of infrared LEDS spaced at predetermined intervals with at least microcontroller for controlling the operation of said plurality of infrared LEDS, wherein said infrared light beam emitting device is powered by a battery in a housing and wherein low battery detection is provided and said housing provided with a plurality of alignment marks for visual alignment of said emitting device with said detecting device, classified in class 356, subclass 226.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does

not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination requires an infrared light beam emitting device is an electronic assembly containing a plurality of infrared LEDS spaced at predetermined intervals with at least microcontroller for controlling the operation of said plurality of infrared LEDS, wherein said infrared light beam emitting device is powered by a battery in a housing and wherein low battery detection is provided and said housing provided with a plurality of alignment marks for visual alignment of said emitting device with said detecting device not required by the combination. The subcombination has separate utility such as in a system which does requires the particulars of the combination (e. g. a memory for storing the status of said plurality of infrared light beams at the moment of takeoff, and a recall switch for recalling and displaying said status on said display means).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Nguyen whose telephone number is (571) 272-2425. The examiner can normally be reached on 9:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8N  
Patent Examiner  
Sang Nguyen  
Art Unit 2877

September 12, 2005

*Sang Nguyen*

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